

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on January 27, 2003 at 9 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)

Members Excused: Rep. Cindy Younkin (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Time counters precede testimony in these minutes.

Committee Business Summary:

Hearing & Date Posted: HB 120, 1/23/2003; HB 133,
1/23/2003; HB 178, 1/23/2003
Executive Action: None

HEARING ON HB 120

Sponsor: REP. RALPH LENHART, HD 2, Glendive

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 0 - 3.5}

REP. LENHART stated this bill would allow detention officers to transfer their Public Employee Retirement System (PERS) time into the Sheriffs' Retirement System (SRS). Detention personnel outnumber deputies; they are professionals who need to be recognized and rewarded, he said. In addition, they face more continuous hazards daily than the arresting officers and sheriff's officers.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 3.5 - 52.3}

John Strandell, Cascade County Sheriff's office, said detention officers deal with high risk, stressful work 24 hours per day. Retention is difficult; he lost 16 officers last year, he said. This bill will help the sheriffs, he said.

CPT. Dennis McCave, Yellowstone County Sheriff's office, said, said detention officers play a vital and dangerous role. This bill would allow them to buy in with no break or lapse in service time nor penalties. He gave a letter of support into exhibit.

EXHIBIT (sth17a01)

Alan "Doc" Harkins, Flathead County Deputy Sheriff, and detention facility commander, said detention personnel have the same requirements and meet the same qualifications as deputies, but their wages are disparate and so is retirement. It is an issue of equal work for equal pay, he said. Sworn officers make more, so his people jump over there, leaving a "hole" in Detention Staff. He said last Session, corrections officers were allowed to get into the Game Warden Retirement System, and detention officers similarly want to join a 20-year retirement system, because PERS is a 30-year system.

Winnie Ore, Department of Corrections, Correctional Practices Bureau Chief, testified in favor.

Dan O'Fallon, Cascade County Deputy, stated detention officers' work more than equals that of deputies.

Kathy Frame, Flathead County Chief Detention Officer, stated her support of this bill.

Sonny Silverthorne, Lewis and Clark County Sheriff's Detention Officer, said this bill could provide parity for detention officers. He gave an exhibit.

EXHIBIT(sth17a02)

Alicia Fritz, Rosebud County, Supervisor of Detention Center, said in her center there is only one officer on duty per shift, increasing dangerous contact with prisoners.

Sgt. Engelberto Ruiz, Jr., Cascade County Detention Center, said some prisoners are mentally ill in addition to being criminals.

Tom Billodeau, Researcher for Montana Education Association/Montana Federation of Teachers, said this is the last protective services group not covered by their own retirement plan. The cost for conversion will be paid by those involved. Any other costs can be borne by the employer. Actuarially, this is sound, he said.

Ronda Wilhelm, Rosebud County Detention Officer, said shift work increases the stress of the job, and cited high turnover rates.

Heather Ward, Lewis & Clark County Sheriff's Detention Officer, stated they cannot carry firearms, only pepper spray.

Tim Fulton, Rosebud County Sheriff, said he lost time into his retirement by starting as a detention officer.

Jim Cashell, Gallatin County Sheriff, said this is a huge issue of fairness. "We have little to offer these folks, yet they are no longer just turnkeys or guards." He said the largest liability in any county is the jail. The sheriffs have one of the most solvent funds in the state, he testified.

Anita Shaw-Tymrack, Gallatin County Detention Center Administrator, thanked the sheriffs, deputies, and others who were in support. She said the federal government has recognized detention supervisors, and they are also recognized at the Law Officers' Memorial.

Kathy McGowan, Montana Sheriffs' and Peace Officers' Association (MSPOA), said they are a conservative organization, but this is their only bill this session. They worked on this for five years with the counties. The fiscal note is not realistic. First, not all those eligible will join. The fiscal note also cannot factor in costs to recruit and retain good people. Finally, the Law

Enforcement Academy is going to start charging the counties for training.

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 52.3 - 60}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.5}

Melanie Symons, Legal Counsel, Public Employment Retirement Board, said it unusual for PERB to oppose this type of bill, but funding has gone down along with the stock market since June. She said they oppose an increased cost to the Sheriff Retirement System (SRS). There will be higher cost to the counties as the employers, and also the expansion of SRS makes it difficult to determine who really is a member. The Board of Investments advised PERS would need to make 20% on investment this year to keep the system sound; they still would need 1.91% more contributions into the SRS to cover costs. Detention officers average age 39.2 with 14.7 years in the system, so they are almost vested. This bill would be close to an unfunded mandate, Ms. Symons testified. The definition is not clear to PERS as to who a detention officer is. She gave an exhibit.

EXHIBIT (sth17a03)

Informational Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 2.5 - 5.3}

Wade Cooperider, Board Member, MSPOA, said they already worked with PERS on this bill. This bill would cost the older folks more and they were to stay in PERS. He said MSPOA had done their homework, now they were being "blind sided" about costs.

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 5.3 - 33}

REP. JACOBSON asked Mr. Strandell to address the offset to cost by reducing attrition and turnover. **Mr. Strandell** said it cost him \$2,700 to train each new officer, and that turnover costs totaled \$43,000 last year. He said detention officers are treated differently and he wants them to be treated the same as deputies.

REP. ROBERTS asked Ms. Symons what the cost to counties would be to initialize this. **Ms. Symons** estimated approximately \$5,000 per county.

REP. HURWITZ asked Mr. Strandell to give an idea of the benefit package detention officers receive. **Mr. Strandell** itemized workers' compensation, social security, and the same vacation and sick leave as for sheriff's officers.

REP. JENT asked Mr. O'Connor to tell how last Session they resolved switching Game Wardens and Peace Officers to a 20-year retirement system. **Mr. O'Connor** said the solution was additional contributions from employees to make it actuarially sound, but that the detention officers are older as a group than game wardens. PERS still needs an increase of 0.5% in contributions to make this work.

REP. JENT asked Ms. Shaw if detention officers would be willing to absorb that difference in cost. **Ms. Shaw** said she would poll the members as to what is acceptable and get that information to him.

REP. SMITH asked Ms. McGowan how many detention officers would switch over. **Ms. McGowan** said of the 400 members, those with 10-15 years' service would not opt in because of cost, leaving the younger folks. **REP. SMITH** asked her if the fiscal note was inflated. She said that the county governments worked on this and assumed the sheriffs' offices would absorb the cost in their budgets.

REP. LEHMAN asked Ms. Frame if all officers worked 12-hour shifts. **Ms. Frame** replied they did and worked 5 days on, 2 off, for 84 hours per bi-weekly pay period. **REP. LEHMAN** asked Ms. Symons if the information PERS had disseminated on 1/6/03 was not correct. She deferred to **Mr. O'Connor**, who said the losses of the last two years have not yet shown in actuarial evaluations. If PERS recognized those losses using market value, it's not a pretty picture, **Mr. O'Connor** said. **CHAIRMAN BARRETT** asked Mr. O'Connor to provide this information and he said he would.

REP. DICKENSON asked Mr. Strandell if county governments feel the cost should be absorbed by the sheriff's budget. **Mr. Strandell** replied all the sheriffs have looked at this; they are losing now by losing good workers. **REP. DICKENSON** asked if there would be a problem like layoffs to meet this expense. **Mr. Strandell** said he did not think so. **REP. BALLANTYNE** asked Mr. Strandell the turnover rate. **Mr. Strandell** replied it was approximately 20%. **REP. BALLANTYNE** asked whether, given the stress, they would stay 20 years. **Mr. Strandell** thought they would.

REP. WAGMAN asked **Mr. O'Connor** about an amendment allowing only new hires into SRS. **Mr. O'Connor** said firefighters did that and

it became an issue later on. **REP. WAGMAN** asked if they could treat existing workers as new hires for SRS. **Mr. O'Connor** said they could not prevent them from buying time. **CHAIRMAN BARRETT** said **REP. WAGMAN** should work with the staff on an amendment. She asked how many counties were represented there today. Not more than six were represented.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 33 - 33.3}

REP. LENHART said it is a good bill but may have outdated information. He said he wants to work with **Mr. O'Connor**, **Mss. McGowan** and **Symons** and **REP. JENT** on an amendment. He called it a "good hearing."

HEARING ON HB 133

Opening Statement by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 33.3 - 38}

REP. JENT said this bill will prevent the teacher drain to other states. Vacancies doubled in the last ten years. Colleges put out 700 new teachers a year but 500 will leave. The average teacher retires after 26 years. Some go to work in another state. This bill will cost money but money will be saved from those who keep working and do not retire from TRS. Trade-offs are not in the fiscal note, he said. Current biennium cost of this bill will be \$12 million, he said.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 38 - 60}

Tom Billodeau, Montana Education Association/Montana Federation of Teachers (MEA/MFT), said that **HB 133** was a committee bill discussed over two interim sessions. The costs were agreed to by TRS and the interim committees. The state cannot afford to ignore this, he said. He provided an exhibit.

EXHIBIT (sth17a04)

Darrel Rud, Executive Director, School Administrators of Montana, said that this bill is a partial solution to retention. The federal government has put increased demands on teachers, making their work more difficult. He distributed Exhibits 5 & 6.

EXHIBIT (sth17a05)

EXHIBIT (sth17a06)

Larry Nielson, Helena Education Association, said that Montana has a massive teacher shortage.

David Senn, Executive Director, TRS, said that California had reduced teacher retirements by 20% when they enacted similar legislation in 1999. Montana gives teachers with 25 years of service full benefits at any age. "This bill will slow down retirements," he testified. **EXHIBIT(sth17a07)**

Bob Vogel, Montana School Board Association and Montana Rural Education Association (MREA), said this will enable Montana to compete with other states.

Madalyn Quinlan, representing the Superintendent of Public Instruction, stated the support of that office.

Vern Beffert, Superintendent, Livingston Schools and President of Montana Association of School Superintendents, said TRS is not getting new teachers coming in. He predicted half of his teachers would retire in the next five years. He said some administrators are moving out of state to earn more.

Opponents' Testimony: None

Informational Testimony: none

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 55 - 60} &

{Tape: 2; Side: A; Approx. Time Counter: 0 - 3.3}

REP. GIBSON asked Mr. Vogel if this bill would strain school district budgets, given that retention means paying higher salaries. **Mr. Vogel** said he was a trustee and they looked at early retirement incentives to entice higher paid folks to resign. **REP. GIBSON** asked if it would mean raising property taxes. He said it may be a trade-off.

REP. LEHMAN asked Mr. Rud how many branches of the university system offered certification for superintendent. **Mr. Rud** said University of Montana and Montana State University. **REP. LEHMAN** asked how many graduate that program yearly. **Mr. Rud** said he will get that information. **REP. LEHMAN** asked Mr. Senn if retired teachers came back, how many more years they would have to work to get the incentive. **Mr. Senn** said two more years.

REP. LEHMAN said if they worked 30 years and were age 55, they would qualify. He asked if they had to work a certain additional time. **Mr. Senn** said they did not.

Closing by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 3.3 - 6}

REP. JENT thanked REP. ALAN OLSON for all his work on this bill and said it enacts the most common rate used in the U.S. for teachers' retirement. He said the Appropriations Committee can do their work now.

HEARING ON HB 178

Sponsor: REP. NANCY FRITZ, HD 69, Missoula

Opening Statement by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 6 - 20}

REP. FRITZ said this bill allows retired teachers to return to teaching, only in critical areas, without losing retirement benefits. Rural and small towns are targeted. It applies only to positions certified by OPI as "hard to fill." She provided Exhibits 8-11. Exhibit 9 is the grey bill, incorporating the amendment prepared by Legislative Aide, Sheri Heffelfinger.

EXHIBIT(sth17a08)

EXHIBIT(sth17a09)

EXHIBIT(sth17a10)

EXHIBIT(sth17a11)

CHAIRMAN BARRETT asked about the fiscal note. REP. FRITZ said it was revised with data from Mr. Senn.

Proponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 20 - 23}

Bob Vogel, Montana School Board Association and Montana Rural Education Association (MREA), testified this bill will give schools one more tool to keep teachers. It is complex and another bill is coming that could be combined or coordinated with this one, he said.

Darrel Rud, Executive Director, School Administrators of Montana, said that this bill will help situations where unique positions are hard to find, for example, speech therapists or teachers for the visually impaired.

Opponents' Testimony: None

Informational Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 23 - 30.8}

David Senn, Executive Director, TRS, said this bill has a 3-year sunset date, the employer contributes and the bill is limited in scope, there is a 12-month waiting period. For these reasons, there likely will not be an adverse impact on TRS. His actuaries define a loss as anything less than an 8% gain. This may happen before the next session. **EXHIBIT (sth17a12)**

Tom Billodeau, MEA/MFT, said there are three issues. First is protection of collective bargaining rights. He wants this bill to be similar to the Matthews bill. Secondly, for OPI's certification of "need," the proof has not been defined. Thirdly, in Montana, there is no temporary teaching certificate, only an emergency certification.

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 30.8 - 39.5}

REP. YOUNKIN asked Mr. Senn if teachers who go back to teaching would get other benefits. **Mr. Senn** said they would get the usual sick and vacation time. **REP. YOUNKIN** asked if once the retired teacher goes back to full retirement, if their benefit would change. **Mr. Senn** said there would be no difference, with the bill's amendments.

REP. DICKENSON asked **REP. FRITZ** if teachers need to be certified in that subject. **REP. FRITZ** said, "yes, in the one which could not be filled." **REP. DICKENSON** asked if a provisional certification would work. The sponsor said she will check with OPI on that.

REP. BECK asked Mr. Senn if **REP. JENT'S** bill passed, if there could be a change in benefits. Under HB 133, if retirees come back, their benefits stop. **Mr. Senn** replied that under HB 178, retirees' benefits are not suspended. He said they don't need to coordinate the two bills, but he will work with Ms. Heffelfinger.

REP. LEHMAN asked **REP. FRITZ** to define "unable to fill the position," and what criteria are used. **REP. FRITZ** answered, "The school district states that there are not enough certified applicants." **REP. LEHMAN** asked if three qualified applicants necessarily make three good teachers. He wondered about possible abuses. **REP. FRITZ** believed OPI already has documentation. They will discuss it later.

Closing by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 39.5 - 41.1}

REP. FRITZ reaffirmed this does not apply to the university system, only K-12, does not put new teachers in competition with retired teachers, has no affect on TRS, does not encourage teachers to retire, and will help with the teacher shortage.

ADJOURNMENT

Adjournment: 11:45 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth17aad)